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Frank C. Nicholas
CARDINAL LAW GROUP
Suite 2000
1603 Orrington Avenue
Evanston, IL 60201

EXAMINER

SWEARINGEN, JEFFREY R

ART UNIT

PAPER NUMBER

2145

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/996,130

Applicant(s)

KUMHYR ET AL.

Examiner

Jeffrey R. Swearingen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz (U.S. Patent No. 6,029,195) and Jacobs et al. (U.S. Patent No. 6,789,170, hereafter referred to as Jacobs).
3. Regarding claim 1, Herz discloses *providing at least one user group* [Herz discloses using a "user profile" which holds attributes for the user to be used in finding relevant information. See Herz, column 4, lines 53-55.], *determining tag information for the data objects* [Herz discloses that each object available for access by the user has a profile containing the object's attributes. See Herz, column 4, lines 49-53.], *determining at least one group interest for the user group* [Herz discloses that the system can compare attributes between one user and a "similar user". Examiner considers comparing attributes between users to see what similar users might be interested in as equivalent to *determining at least one group interest for the user group*. See Herz, column 6, lines 34-43.], and *determining whether the tag information corresponds to the group interest* [The object attributes are compared to the user attributes, and ranked to show how much the user might be interested in them. See Herz, column 5, lines 6-20.]. Herz fails to disclose *placing data objects including tag information of said group interest into a server cache*.
4. However, Jacobs discloses *placing data objects including tag information into a server cache* [Jacobs discloses caching data with specialized tags. Jacobs' system is utilized for inserting custom data by using the tags upon a user retrieving said data from the cache, but the insertion of custom data is upon retrieval and would not affect the caching of data with tags intact. See Jacobs, column 2, lines 54-62.].

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5. It would have been obvious to one of ordinary skill in the art to combine the teachings of Herz and Jacobs for the purpose of caching customized data for multiple users for faster access. [See Jacobs, column 1, line 63 – column 2, line 2. See Jacobs, column 2, lines 13-24.] Herz gives motivation for the combination by stating users should be able to access relevant information without expending an excessive amount of time and energy. [See Herz, column 4, lines 28-32.] By this rationale claim 1 is rejected.

6. Regarding claim 2, Herz and Jacobs are applied as in claim 1. Herz further discloses that *the data object includes a Web page*. [Herz discloses that target objects may be of various sorts, including World Wide Web sites. See Herz, column 7, lines 19-35.] Jacobs also discloses that cached data can comprise web pages. [See Jacobs, column 3, lines 54-59.] By this rationale claim 2 is rejected.

7. Regarding claim 3, Herz and Jacobs are applied as in claim 2. Jacobs further discloses that *the Web page comprises information provided as hypertext mark-up language (HTML) or extensible mark-up language (XML), including tag information provided as hypertext transfer protocol (HTTP)*. [See Jacobs, column 4, lines 6-10. See Jacobs, column 3, lines 54-59.] By this rationale claim 3 is rejected.

8. Regarding claim 4, Herz and Jacobs are applied as in claim 1. Herz further discloses *reading data object tag information*. [Herz discloses using profile information that describes the target objects' characteristics. In order to use the profile information, the system must read the profile information. See Herz, column 6, lines 16-22.] By this rationale claim 4 is rejected.

9. Regarding claim 5, Herz and Jacobs are applied as in claim 1. Herz further discloses *generating data object tag information* [Herz discloses automatically calculating and updating profile information for target objects' characteristics. Calculating profile information based upon the target objects' characteristics and placing it in or updating a profile are equivalent to *generating data object tag information*. See Herz, column 6, lines 16-22.]. By this rationale claim 5 is rejected.

10. Regarding claim 6, Herz and Jacobs are applied as in claim 1. Herz further discloses *managing predictive data*. [Herz discloses matching users and target objects by automatically calculating, using and updating profile information that describes both the users' interests and the target objects' characteristics. See Herz, column 6, lines 16-22.] By this rationale claim 6 is rejected.

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11. Regarding claim 7, Herz and Jacobs are applied as in claim 6. Herz further discloses *considering static predictions*. [Herz discloses using attributes from a target object's profile and matching them to attributes from a user's profile. See Herz, column 6, lines 38-54.] By this rationale claim 7 is rejected.
12. Regarding claim 8, Herz and Jacobs are applied as in claim 6. Herz further discloses *considering access patterns*. [Herz discloses using how often something is accessed in determining the target object's attributes. See Herz, column 6, lines 43-45, lines 54-58.] By this rationale claim 8 is rejected.
13. Regarding claim 9, Herz and Jacobs are applied as in claim 1. Herz further discloses *determining whether the tag information corresponds to the group interest comprises determining interest match information*. [Herz discloses matching users and target objects by their profile information to match users' interests and target objects' characteristics. See Herz, column 6, lines 16-22.] By this rationale claim 9 is rejected.
14. Regarding claim 10, Herz and Jacobs are applied as in claim 1. Herz further discloses *determining whether the tag information corresponds to the group interest comprises determining a pertinence score*. [Herz discloses ranking the listing of target objects most likely to be of interest to a user. Examiner considers a ranking to be equivalent to a pertinence score.] By this rationale claim 10 is rejected.
15. Regarding claim 11, the limitations of this claim are substantially the same as the limitations of claim 1. Therefore the rationale used to reject claim 1 is equally applicable to claim 11. By this rationale claim 11 is rejected.
16. Regarding claim 12, the limitations of this claim are substantially the same as the limitations of claim 2. Therefore the rationale used to reject claim 2 is equally applicable to claim 12. By this rationale claim 12 is rejected.
17. Regarding claim 13, the limitations of this claim are substantially the same as the limitations of claim 3. Therefore the rationale used to reject claim 3 is equally applicable to claim 13. By this rationale claim 13 is rejected.

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18. Regarding claim 14, the limitations of this claim are substantially the same as the limitations of claim 4. Therefore the rationale used to reject claim 4 is equally applicable to claim 14. By this rationale claim 14 is rejected.

19. Regarding claim 15, the limitations of this claim are substantially the same as the limitations of claim 5. Therefore the rationale used to reject claim 5 is equally applicable to claim 15. By this rationale claim 15 is rejected.

20. Regarding claim 16, the limitations of this claim are substantially the same as the limitations of claim 6. Therefore the rationale used to reject claim 6 is equally applicable to claim 16. By this rationale claim 16 is rejected.

21. Regarding claim 17, the limitations of this claim are substantially the same as the limitations of claim 7. Therefore the rationale used to reject claim 7 is equally applicable to claim 17. By this rationale claim 17 is rejected.

22. Regarding claim 18, the limitations of this claim are substantially the same as the limitations of claim 9. Therefore the rationale used to reject claim 8 is equally applicable to claim 18. By this rationale claim 18 is rejected.

23. Regarding claim 19, the limitations of this claim are substantially the same as the limitations of claim 9. Therefore the rationale used to reject claim 9 is equally applicable to claim 19. By this rationale claim 19 is rejected.

24. Regarding claim 20, the limitations of this claim are substantially the same as the limitations of claim 10. Therefore the rationale used to reject claim 10 is equally applicable to claim 20. By this rationale claim 20 is rejected.

25. Regarding claim 21, the limitations of this claim are substantially the same as the limitations of claim 1. Therefore the rationale used to reject claim 1 is equally applicable to claim 21. By this rationale claim 21 is rejected.

Response to Arguments

26. Applicant's arguments filed 4/11/2005 have been fully considered but they are not persuasive.

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27. The Examiner has withdrawn the rejections to claims 17 and 18 under 35 U.S.C. 112 based on Applicant's amendment. The rejections under 35 U.S.C. 103 stand and this rejection is made **FINAL**.

28. Applicant has argued both in the telephonic interview and the Remarks mailed 4/11/2005 the deficiencies of Herz in view of Jacobs over the claimed subject matter. The Examiner formally rebuts the arguments at this time.

29. Applicant argues that Herz in view of Jacobs fails to teach or suggest "providing at least one user group" as claimed in independent claims 1, 11 and 21. The Examiner maintains that user groups are taught in Herz. Herz, column 4, lines 53-55 states that "a profile holding that user's attributes, including age/zip code/etc. is termed a "user profile". Herz goes on to say that "a profile consisting of a collection of attributes, such that a user likes target objects whose profiles are similar to this collection of attributes, is termed a "search profile" or in some contexts a "query" or "query profile". Herz, column 4, lines 58-61. Herz further states in column 6, lines 38-43, that users are compared with "similar users" in defining what objects the user would be interested in according to their profile. Comparing user profiles with similar users clearly teaches formation of a user group which accomplishes the functionality in claim 1.

30. Applicant further argues that Herz in view of Jacobs does not teach or suggest "determining at least one group interest for the user group" as also claimed in independent claims 1, 11 and 21. The Examiner states that Herz teaches matching a profile of a target object with the user profile. Herz, column 4, lines 55-61. Herz teaches comparing profiles of objects that similar users have shown interest in with profiles of objects that the user shows interest in. This inherently suggests that the profiles of the user **are compared** with the profiles of **similar users**. If this were not so, then it would not be possible for Herz to identify what a **similar user** would be interested in and present such an object to the user in question. See Herz, column 6, lines 38-43. By comparing the user profile to similar user's profiles and determining what similar users would be interested in, Herz has taught "determining at least one group interest for the user group".

31. Applicant argues that Herz in view of Jacobs fails to teach "determining whether the tag information corresponds to the group interest, and if there is correspondence, placing data objects including tag information of said group interest into a server cache." The Examiner maintains that Jacobs

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teaches this attribute in column 2, lines 54-62. "...data to be cached may be specially configured to allow it to be customized for different data requests. The data may, for example, have special tags or identifiers inserted to identify a portion of the data that may be replaced with custom data. The tags may be inserted by an application that controls or manages the data; the application may run on the data server that provides the data to the cache system in response to requests that cannot be satisfied by data that is already cached." This is placing data objects with tag information into a server cache based upon a customized data request. Such a customized data request would be based upon correspondence with the group interest when combined with the Herz reference.

32. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Jacobs states that caching data for multiple users is desired to allow for faster access. See Jacobs, column 1, line 63 – column 2, line 2 and lines 13-24. Herz also gives motivation by stating users should be able to access relevant information without expending an excessive amount of time and energy. See Herz, column 4, lines 28-32.

33. Furthermore, caching data utilizing tags is well known within the networking art as a common way of increasing the speed of access to data. The purpose of caching data is to allow a processor faster access to data without going to a storage drive during each access, as storage drives has slower access times than cache memory. Tags are commonly used in caching data. Tags are also commonly used in XML applications, comparing information between two sources. The usage of comparative tags with data and adding said data with tags to a server cache is not merely taught in Herz in view of Jacobs, but is an obvious modification to Herz to one of ordinary skill in the networking art.

34. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only

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knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper.

See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

35. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kramer et al., U.S. Patent No. 6,327,574.

36. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 571-272-6159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JW


VALENCIA MARTIN-WALLACE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700